IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CR No.168 of 2006

Decided on:December 26, 2006

Deepak Kumar

.....Petitioner.

VERSUS

Uma Devi & Ors. **.....Respondents.**

Coram

The Hon'ble Mr. Justice V.K. Gupta, Chief Justice.

Whether approved for reporting?[1]

For the Petitioner: **Mr.Suneet Goel, Advocate.**

For Respondents 1 to 4: **Mr.Kuldip Singh, Sr.Advocate with Mr.Karan Singh, Advocate.**

V.K. Gupta, Chief Justice (Oral)

I have perused the impugned order dated 30th October, 2006 and find that the learned trial Court has without assigning valid and cogent reasons dismissed the application filed by the petitioner under Section 65 of the Evidence Act and has in a similar manner closed the petitioner's evidence. The impugned order is set aside.

2. It is directed that the learned trial Court shall take up Section 65 application and after calling for reply to the same from the opposite parties decide the same on its merit by passing a reasoned and speaking order.

---

[1] ***Whether the reporters of the local papers may be allowed to see the Judgment?***

3. Witnesses sought to be summoned by the petitioner had in fact been summoned but despite service were not present in the trial Court on the date fixed for this purpose. These witnesses shall now be re-summoned. Their evidence shall be recorded after they are present in the Court pursuant to being summoned.

4. Record be sent back to the trial Court where the parties through their learned counsel are directed to appear on ***18th January, 2007.***

5. The petition is allowed. No order as to costs.

CMP No.662/2006:

In view of the order passed in the main matter, this application is also disposed of.

December 26, 2006 **(V.K. Gupta)**
(soni) **Chief Justice.**